

(APPLICATION)

UNITED STATES OF AMERICA  
THE DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY

**APPLICATION OF SILVERHILL LTD. FOR  
AUTHORIZATION TO TRANSMIT ELECTRIC ENERGY  
TO CANADA**

Silverhill Ltd., pursuant to Section 202(e) of the Federal Power Act ("FPA") (a6 U.S.C. Section 824(e)) and 10 C.F.R. Section 205.300 to 205.309, hereby files its Application for blanket authority to transmit electric energy from the United States to Canada.

**I.**

**DESCRIPTION OF APPLICANT**

The exact legal name of applicant is Silverhill Ltd. Silverhill Ltd, is a corporation formed under Ontario law with its principal place of business in Toronto, Ontario.

Silverhill Ltd does not own or control any electric power generation or transmission facilities and does not have a franchised electric power service area. Silverhill Ltd will operate as a marketer and broker of wholesale electric power and may arrange services in related areas such as fuel supplies and transmission services. Silverhill Ltd will purchase the power to be exported from electric utilities and power marketing agencies as defined in Sections 3 (22) and (19) (16 U.S.C. Section 796 (22) and (19)) of the FPA. This instant applications relates to Silverhill Ltd as a marketer of electric power only.

---

As used herein, the terms "marketer" and "power marketer" mean an entity that buys and sells electric power for its own account. Silverhill Ltd has a currently effective power marketing and rate schedules approved by the Federal Energy Regulatory Commission (FERC).

## **II.**

### **JURISDICTION**

No other known federal, provincial or local government has jurisdiction over the actions to be taken under the authority sought in this application.

## **III.**

### **COMMUNICATIONS**

All service and correspondence concerning this application should be sent to:

George Radan  
President, Silverhill Ltd.  
17 Golf Crest Road  
Toronto, Ontario  
M9A 1L2  
Tel: (416) 231-8407  
Fax: (416) 231-8407  
Email: [george.radan@sympatico.ca](mailto:george.radan@sympatico.ca)

## **IV.**

### **TECHNICAL DISCUSSION OF PROPOSAL**

Silverhill Ltd seeks authority to transmit electric power to Canada as a power marketer. As noted above, Silverhill Ltd has no "system" of its own on which its exports of power could have a reliability or stability impact. Silverhill Ltd will purchase the power to be exported from electric utilities and power marketing agencies as those terms are defined in Sections 3 (22) and (10) of the FPA. By definition, such power is surplus to the system of the generator therefore and thus will not impair the sufficiency of the electric power supply within the United States<sup>2</sup>

Silverhill Ltd will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to effect any power exports. This would include (1) scheduling each transaction with the appropriate control area in compliance with all reliability criteria, standards, and guidelines of the North American Electric Reliability Council and member regional councils (the "NERC") in effect at the time of export and (2) obtaining all necessary transmission access over all relevant existing facilities.

---

2. Order No. EA-102, issued February 6, 1996 to Enron Power Marketing, Inc .

As the Department of Energy (“DOE”) noted in Order No. EA-102 issued to Enron Power Marketing, Inc. (referred to hereinafter as “*Enron*”), DOE may utilize the reliability analyses performed in the most recent export authorization proceedings of the above named transmission systems in order to make the findings required for a grant of export authority to Silverhill Ltd. Silverhill Ltd respectfully requests that DOE do so and agrees to abide by the export limits contained in the relevant export authorization of any transmission system over which Silverhill Ltd exports electric power to Canada. The controls which are inherent in any transaction which complies with all NERC requirements and the export limits imposed by DOE on the above-named transmission system are sufficient to ensure that exports by Silverhill Ltd would not impede or tend to impede the coordinated use of transmission facilities within the meaning of Section 202(e) of the FPA.

## V.

### PROCEDURES

Silverhill Ltd proposes to comply with procedures similar to those imposed by *Enron*. From time to time Silverhill Ltd will enter into agreements with third parties, which involve the export of electric power from the United States to Canada. Silverhill Ltd will make and preserve complete records with respect to the electric power exported to Canada and will provide DOE with quarterly reports within 30 days following each calendar quarter. These quarterly reports will show the gross amount of kilowatt-hours of electric energy delivered and the consideration received therefore during each month of the previous quarter and the maximum hourly rate of transmission.

## VI.

### EXHIBITS AND ATTACHMENTS

The following Exhibits and Attachments are attached hereto:

**Exhibit A** – Formal Declaration and Commitment of Silverhill Ltd’s President & CEO

**Exhibit B** – Transmission Facilities (submitted in lieu of maps)

**Attachment 1** – Copy of Federal Energy Regulatory Commission Market-Based Rate Authorization Letter, issued November 22, 2005, Docket Nos. ER05-1195-001-002 accepting Silverhill Ltd’s Rate Schedule FERC No. 1.

**Exhibits listed in sample applications which are not applicable to Silverhill Ltd:**

- (i) Agreements;
- (ii) Non-Canadian applicant’s power of attorney; and

- (iii) Operating procedures regarding available capacity and energy.

**VII.**

**CONCLUSION**

Silverhill Ltd respectfully requests that this application for blanket authority to transmit electric energy to United States be expeditiously considered and approved on substantially similar terms as were imposed in *Enron*.

Respectfully submitted,

By:



Name: George Radan

Title: President & CEO



## EXHIBIT C

### SILVERHILL LTD.

17 Golf Crest Road  
Toronto, Ontario  
M9A 1L2  
(416) 231-8407  
(416) 231-8407 Fax

Anthony J. Como  
Manager, Electric Power Regulation  
Office of Coal & Power Im/Ex  
Office of Fossil Energy  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Dear Mr. Como:

The following opinion is given in support of the Application of Silverhill Ltd for authorization to transmit electric energy to the United States.

1. I am the acting President & CEO as well as a member of the board of Silverhill Ltd.
2. Silverhill Ltd is duly organized, validly existing and in good standing under the laws of the Province of Ontario and is authorized to do business in the Province of Ontario and such other provinces as required by the current nature of its business;
3. Silverhill Ltd has full corporate power and authority to buy, sell, or act as a marketer/broker in the sale and exportation of electric energy as requested in this Application; and
4. Silverhill Ltd intends to comply fully with all applicable US Federal and State Laws as well as Canadian Government and Provincial laws.

By:   
Name: George Radan  
Title: President & CEO

## EXHIBIT D

### International Transmission Facilities At the U.S. Border with Canada Authorized for Use by Third-Party Transmitters

<u>Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u>
Basin Electric	Tioga, ND	230 kV	PP-64
BPA	Blaine, WA	2-500 kV	PP-10
	Nelway, WA	230 kV	PP-36
	Nelway, WA	230 kV	PP-46
Citizens Utilities Company	Derby Line, VT	120 kV	PP-66
Eastern Maine Electric Cooperative	Calais, ME	670 kV	PP-32
International Transmissions	St. Clair, MI	345 kV	PP-230
	Marysville, MI	230 kV	PP-230
	Detroit, MI	230 kV	PP-230
	St. Clair, MI	345 kV	PP-230
Joint Owners of Highgate Project	Highgate, VT	120 kV	PP-82
Long Sault, Inc.	Massena, NY	2-115 kV	PP-24
Maine Electric Power Company	Houlton, ME	345 kV	PP-43
Maine Public Service Company	Limestone, ME	69 kV	PP-12
	Fort Fairfield, ME	69 kV	PP-12
	Aroostock, ME	138 kV	PP-29
	Madawaska, ME	2-69 kV	PP-29
Minnesota Power, Inc.	International Falls, MN	115 kV	PP-78
Minnkota Power Cooperative, Inc.	Roseau County, MN	230 kV	PP-61
New York Power Authority	Massena, NY	765 kV	PP-56
	Massena, NY	2-230 kV	PP-25
	Niagara Falls, NY	2-345 kV	PP-74
	Devils Hole, NY	230 kV	PP-30
Niagara Mohawk Power Corp.	Devils Hole, NY	230 kV	PP-190
Northern States Power Company	Red River, ND	230 kV	PP-45
	Roseau County, MN	500 kV	PP-63
Vermont Electric Transmission Co.	Norton, VT	450 kV DC	PP-76

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

In Reply Refer To:  
Silverhill Ltd.  
Docket Nos. ER05-1195-000,  
ER05-1195-001, and  
ER05-1195-002  
November 22, 2005

Silverhill Ltd.  
Attn: George Radan  
President & CEO  
17 Golf Crest Rd.  
Toronto, Ontario  
M9A 1L2  
Canada

Reference: Market-Based Rate Authorization

Ladies and Gentlemen:

Pursuant to the authority delegated to the Director, Division of Tariffs and Market Development - South, under 18 C.F.R. § 375.307, your submittal filed in the referenced docket is accepted for filing, effective on the date of this order, as requested.<sup>1</sup>

On July 5, 2005, as amended on August 15, 2005, October 3, 2005, and November 16, 2005, you filed on behalf of Silverhill Ltd. (Silverhill), an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity at market-based rates.

You state that Silverhill proposes to act as a power marketer, purchasing electricity and reselling it to wholesale customers. Silverhill is an Ontario, Canada corporation headquartered in Toronto, Canada. You state that Silverhill does not own or control generation facilities or transmission facilities. You state that Silverhill is unable to erect barriers to entry. Lastly, Silverhill's market-based rate tariff prohibits sales to any affiliate of Silverhill that has a franchised service territory and that Silverhill does not have any affiliates.

---

<sup>1</sup> FERC Electric Tariff, Original Volume No. 1, Original Sheet Nos. 1-3.



Your filings were noticed on July 12, 2005, August 19, 2005, and October 6, 2005, with comments, protests or interventions due on or before July 26, 2005, September 6, 2005, and October 24, 2005. None was filed.

### **Market-Based Rate Authorization**

The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.<sup>2</sup>

Based on your representations, your submittal satisfies the Commission's requirements for market-based rates regarding generation market power, transmission market power, other barriers to entry, and affiliate abuse.

### **Other Waivers, Authorizations and Reporting Requirements**

Your request for waiver of Subparts B and C Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16 is granted. Your request for waiver of Part 41, Part 101, and Part 141 of the Commission's regulations concerning accounting and reporting requirements is granted with the exception of 18 C.F.R. §§ 141.14 and 141.15.<sup>3</sup> Notwithstanding the waiver of the accounting and reporting requirements here, Silverhill is expected to keep its accounting records in accordance with generally accepted accounting principles.

---

<sup>2</sup> See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155, at 61,919 (1996); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281, at 61,899 (1996); *accord Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223, at 62,062-63 (1994).

<sup>3</sup> *Citizens Energy Corp.*, 35 FERC ¶ 61,198 (1986); *Citizens Power and Light Corp.*, 48 FERC ¶ 61,210 (1989) (*Citizens Power*); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994) (*Enron*). It should be noted that the Commission is examining the issue of continued applicability of the waivers of its accounting and reporting requirements (18 C.F.R. Parts 41, 101 and 141) as well as continued applicability of the blanket authorization for the issuance of securities and the assumption of obligations and liabilities, (18 C.F.R. Part 34). See *Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities*, Order No. 627, 67 Fed. Reg. 67,691 at P 23 and P 24 (October 10, 2002), FERC Stats. & Regs. ¶ 32,558 (2002).



You request blanket authorization under Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability. A separate notice will be published in the Federal Register following this letter order establishing a period during which protests may be filed. Absent a request to be heard within the period set, you are authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Silverhill, compatible with the public interest, and reasonably necessary or appropriate for such purposes.<sup>4</sup>

Your request for waiver of the full requirements of Part 45 of the Commission's regulations is denied. The Commission has stated that it no longer grants waivers of the full requirements of Part 45 in orders granting market based rate authority.<sup>5</sup>

Consistent with the procedures the Commission adopted in Order No. 2001, you must file electronically with the Commission an Electric Quarterly Report containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based power sales during the most recent calendar quarter.<sup>6</sup> Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.<sup>7</sup> Accordingly,

---

<sup>4</sup> *Citizens Power*, 48 FERC ¶ 61,210; *Enron*, 65 FERC ¶ 61,305.

<sup>5</sup> See *Commission Authorization to Hold Interlocking Positions*, Order No. 664, 112 FERC ¶ 61,298 at P 34, FERC Stats. & Regs. ¶ 31,194 (2005) ("[W]e intend to no longer grant waivers of the full requirements of [P]art 45 in our orders granting market-based rate authority. Rather, persons seeking to hold interlocking positions will be required henceforth to comply with the full requirements of [P]art 45").

<sup>6</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

<sup>7</sup> The exact dates for these reports are prescribed in 18 C.F.R. § 35.10b. Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

Silverhill must file its first Electric Quarterly Report no later than 30 days after the first quarter that Silverhill's rate schedule is in effect.

Order No. 652 requires that you timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>8</sup>

Your updated market power analysis is due within three years of the date of this order. The Commission has stated it reserves the right to require such an analysis at any time.<sup>9</sup>

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

---

<sup>8</sup> *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

<sup>9</sup> *See, e.g., Duke/Louis Dreyfus Energy Services (New England) L.L.C.*, 75 FERC ¶ 61,165 (1996); *Western Resources, Inc.*, 94 FERC ¶ 61,050 (2001).

Questions regarding the above order should be directed to:

Federal Energy Regulatory Commission  
Attn: Michelle Barnaby  
Phone: (202) 502-8407  
Office of Markets, Tariffs, and Rates  
888 First Street, N.E., Room 82-03  
Washington, D.C. 20426

Sincerely,

Steve P. Rodgers, Director  
Division of Tariffs and Market  
Development - South